

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**JURY SELECTION PLAN
(As amended, May 18, 1999)**

§1. APPLICABILITY OF PLAN

This plan is applicable to the Eastern District of New York, which consists of the counties of: Kings, Nassau, Queens, Richmond and Suffolk. There are no statutory divisions in the Eastern District of New York. Places where court shall be held for the Eastern District of New York are designated in 28 U.S.C. §112(c), and include Brooklyn and Long Island courthouse locations.

§2. POLICY

All litigants in federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community. All citizens shall have the opportunity to be considered for service on grand and petit jurors and shall have an obligation to serve as jurors when summoned for that purpose. No citizens shall be excluded from service as a grand or petit juror on account of race, color, religion, sex, national origin, or economic status.

§3. MANAGEMENT AND SUPERVISION OF JURY SELECTION

The clerk of the court shall manage the jury selection process, under the supervision and control of the Chief Judge.

§4. RANDOM SELECTION FROM VOTER LISTS

While voter registration lists of the component counties represent a fair cross section of the community in the Eastern District of New York an even greater number of citizens will be eligible for jury service if supplemental source lists are used. Accordingly, names of grand and petit jurors serving on or after the effective date of this plan shall be selected at random from the voter registration lists of all the counties within the Eastern District of New York supplemented by lists for these counties from the New York State Department of Motor Vehicles.

For the Eastern District as a whole, at the clerk's option, and after consultation with the court, the selection of names from complete source list databases in electronic media for the master jury wheel may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, at the option of the clerk and after consultation with the court, a properly

programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel for the purpose of determining qualification for jury service, and from the qualified wheel for summoning persons to serve as grand or petit jurors. Such random selections of names from the source lists for inclusion in the master wheel by data computer personnel must insure that each county within the district is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. § 1863 (b)(3). The selections of names from the source lists, the master wheel, and the qualified wheel must also insure that the mathematical odds of any single name being picked are substantially equal.

§5. MASTER JURY WHEEL

A master jury wheel shall consist of the combined source lists with names selected under §4 marked, or, in the discretion of the clerk in consultation with the Chief Judge a properly programmed electronic data processing system, devices similar in purpose and function to a wheel.

The clerk shall establish a master jury wheel for the Eastern District as a whole. The Eastern District's master jury wheel shall include the names of all persons randomly selected from the combined source lists of all the counties of the Eastern District. The minimum number of names to be placed initially in the master jury wheel shall be five thousand.

The Chief Judge may order additional names to be placed in a master jury wheel using the same system described in section 4 from time to time as necessary. A master jury wheel shall be emptied and refilled from the combined source lists on or before September 1 following each presidential election and every two years thereafter.

§6. COMPLETION OF JUROR QUALIFICATION FORM

From time to time as directed by the Chief Judge, the clerk shall publicly draw at random from a master jury wheel the names of as many persons as may be required for jury service. The clerk shall prepare an alphabetical list of the names drawn.

If mailing of the juror qualification forms can be accomplished within two months, the clerk may, with the consent of the Chief Judge, draw the entire list on a master jury wheel at one time.

The clerk, at such time as shall be practicable and consistent with his other duties and those of this staff, shall mail to every person whose name is drawn from a master wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk by mail within ten days.

In any case in which it appears that there is an omission, ambiguity, or error in a form, the

clerk shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk forthwith to appear before the clerk to fill out a juror qualification form.

A person summoned to appear because of failure to return a juror qualification form as instructed who personally appears and executes a juror qualification form before the clerk, may, in the discretion of the court, except where his prior failure to execute and mail such form was willful, be entitled to receive for such appearance the same fees and travel allowances paid to jurors. At the time of his appearance for jury service, any person may be required to fill out another juror qualification form in the presence of the clerk or the court at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk or a judge of the court may be noted on the juror qualification form and transmitted to the Chief Judge.

§7. EXCUSES ON INDIVIDUAL REQUEST

The court hereby finds that jury service by members of the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience, and the excuse of such members is not inconsistent with the Federal Jury Act, 28 U.S.C. §§ 1861-1878, and shall be granted upon individual request:

- (1) Persons over 70 years of age.
- (2) Actively engaged members of the clergy.
- (3) Persons having active care and custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by their absence for jury service; or a person who is essential to the care of aged or infirm persons.
- (4) Actively practicing attorneys, physicians, dentists, and registered nurses.
- (5) Persons who have served as a grand or petit juror in a state or federal court within the preceding two years.
- (6) Any person whose services are so essential to the operation of a business, commercial, or agricultural enterprise that it must close if the person were required to perform jury duty.

§8. EXEMPTION FROM JURY SERVICE

The district court hereby finds that exemption of the following groups of persons or occupational classes is in the public interest and would not be inconsistent with the act and accordingly members of such groups are exempt from jury service:

- (1) Members in active service in the Armed Forces of the United States.
- (2) Active full-time paid members of a fire or police department.
- (3) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or any State, district, territory, or possession or subdivision thereof, who are actively engaged in the performance of official duties. Public officer shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office.

§9. DETERMINATION OF QUALIFICATIONS, EXCUSES, AND EXEMPTIONS

The Chief Judge, on his initiative or upon recommendation of the clerk, shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is qualified for, or exempt, or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and the list of names drawn from the master jury wheel. If a person did not appear in response to a summons, this fact shall be noted on the list.

In making the determination the Chief Judge shall deem any citizen qualified to serve on grand and petit juries in the district court unless he, or she --

- (1) is under 18 years of age;
- (2) has not resided within the district for one year;
- (3) is unable to read, write, and understand the English language well enough to fill out satisfactorily the juror qualification form;
- (4) is unable to speak the English language;
- (5) is incapable, by reason of mental or physical infirmity, to render satisfactory jury

service; or

- (6) has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of a crime punishable by imprisonment for more than one year and his civil rights have not been restored by pardon or amnesty.

§10. LIMITATION OR DISQUALIFICATIONS, EXCLUSIONS, EXCUSES OR EXEMPTIONS

Except as provided by law or this plan, no person or class of persons shall be disqualified, excluded, excused, or exempt from service as jurors: Provided, that any person summoned for jury service may be (1) excused by the court, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary, at the conclusion of which such person shall be summoned again for jury service, or (2) excluded by the court on the ground that such person may be unable to render impartial jury service or that his service as a juror would be likely to disrupt the proceedings, or (3) excluded upon peremptory challenge as provided by law, or (4) excluded pursuant to the procedure specified by law upon a challenge by any part for good cause shown, or (5) excluded upon determination by the court that his service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (5) of this section unless a judge, in open court, determines that exclusion is warranted and that exclusion of the person will not be inconsistent with the law.

The number of persons excluded under clause (5) of this section shall not exceed one per centum of the number of persons who return executed jury qualification forms during the period, specified in this plan, between two consecutive fillings of a master jury wheel. The names of persons excluded under clause (5) of this section together with detailed explanations for the exclusions, shall be forwarded immediately to the judicial council of the second circuit, which shall have the power to make any appropriate order, prospective or retroactive, to redress any misapplication of clause (5) of this section but otherwise exclusions effectuated under such clause shall not be subject to challenge under the provisions of the Act. Any person excluded from a particular jury under clause (2), (3), or (4) of this section shall be eligible to sit on another jury if the basis for his initial exclusion would not be relevant to his ability to serve on such other jury.

Whenever a person is disqualified, excused, exempt, or excluded from jury service, the clerk shall note the specific reason therefor.

§11. QUALIFIED JURY WHEELS

The clerk shall maintain a qualified jury wheel for the Eastern District in the form of an electronic data processing system or some equivalent. The clerk shall place in such wheel the names of persons drawn from the master jury wheel who are determined to be qualified as jurors and not exempt or excused pursuant to this plan.

§12. PUBLICATION OF NAMES DRAWN FROM QUALIFIED JUROR WHEELS

Names drawn from a qualified jury wheel shall not be made available to the public until the jurors have been summoned and have appeared at the courthouse, provided that the Chief Judge may order the names to be kept confidential in a case or cases when the interests of justice so require.

§13. ASSIGNMENT TO PANELS

From time to time, the clerk shall publicly draw at random from the Eastern District's qualified jury wheel such number of names of persons as may be required for assignment to grand and petit jury panels to sit in Brooklyn, and in Long Island. The clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel.

The clerk shall assign persons whose names have been drawn from the qualified jury wheel to grand and petit panels by random selection. No separate group drawn from the Eastern District's qualified jury wheel shall be assigned in advance to grand jury or petit jury duties but jurors shall be drawn from that qualified jury wheel for these duties as required from month to month.

§14. SUMMONING OF JURY PANELS

When the court orders a grand or petit jury to be drawn, the clerk shall issue summonses for the required number of jurors. Each person drawn for jury service may be served personally or by registered or certified or first class mail addressed to such person at his usual residence or business address.

§15. LIMITATION OF SERVICE IN TWO-YEAR PERIOD

In any two-year period, no person shall be required to 1) serve or attend court for

prospective service as a petit juror for a total of more than thirty days, except when necessary to complete service in a particular case, or (2) serve on more than one grand jury, or (3) serve as both a grand and petit juror.

§16. UNANTICIPATED SHORTAGE OF JURORS

When there is an unanticipated shortage of available petit or grand jurors drawn from a qualified jury wheel, the court may require the clerk to summon a sufficient number of jurors selected at random from the appropriate voter registration lists and New York State Department of Motor Vehicle lists, in a manner ordered by the court consistent with 28 U.S.C. § 1866(f).

§17. LETTERS OF TRANSMITTAL, QUESTIONNAIRES AND SCHEDULE OF EXCUSES

Any juror qualification form, letters of transmittal, questionnaires, notices or other forms used by the clerk in carrying out this plan shall be in the form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States.

§18. MAINTENANCE AND INSPECTION OF RECORDS

After a master jury wheel is emptied and refilled, and after all persons selected to serve as jurors before that master wheel was emptied have completed such service, all records and papers compiled and maintained by the clerk before that master wheel was emptied shall be preserved in the custody of the clerk for four years or for such longer period as may be ordered by a court, and shall be available for public inspection for the purpose of determining the validity of the selection of any jury.

§19. MODIFICATION OF THE PLAN

This plan may be modified at any time and shall be modified when this Court is so directed by the Judicial Council of the Second Circuit.

Modifications of this plan, made at the instance of this Court, shall become effective after approval by the Second Circuit Panel, in accordance with 28 U.S.C. § 1863(a).

§20. FILING COPIES OF THE PLAN

Copies of the plan as initially adopted and of future modifications shall be filed with the Judicial Council of the Second Circuit, the Administrative Office of the United States Courts and the Attorney General of the United States.

§21. EFFECTIVE DATE OF THE PLAN

This plan shall be placed into operation after it has been approved by a Reviewing Panel consisting of the members of the Judicial Council of the Second Circuit and the Chief Judge of this district, in accordance with 28 U.S.C. § 1863.

Adopted May 18, 1999
Board of Judges
Eastern District of New York

Approved July 12, 1999
Second Circuit